

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-MN-JLH

**JURY TRIAL DEMANDED**

MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.,

Counter-Defendant.

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1378-MN-JLH

**JURY TRIAL DEMANDED**

MASIMO CORPORATION and  
CERCACOR LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC.,

Counter-Defendant.

**JOINT MOTION FOR CONFERENCE TO  
RESOLVE DISCOVERY DISPUTES**

Pursuant to Paragraph 8(g) of the Scheduling Order (D.I. 103, C.A. No. 22-1377; D.I. 92,

C.A. No. 22-1378), Plaintiff Apple Inc. and Defendants Masimo Corporation and Sound United, LLC respectfully move to schedule a conference to address outstanding disputes regarding the following discovery issues:

Issues Raised By Apple:

- Issue 1: Apple's motion to strike Masimo's November 7, 2023 amendment to its contentions and theories regarding the alleged priority date of U.S. Patent No. 10,736,507.
- Issue 2: Apple's motion to compel Masimo to produce documents sufficient to show the structure and operation of prior art Masimo Radical and Masimo SET products (including the LNOP and NR products) as well as samples of those same products.
- Issue 3: Apple's motion to compel Masimo's production of clawed-back documents based on privilege and additional testimony related to Masimo's analyses of Apple Watch.

Issues Raised by Masimo:

- Issue 1: Masimo's motion to compel Apple to produce documents and unredacted versions of documents related to its watch products.
- Issue 2: Masimo's motion to compel Apple to produce internal documents that are in foreign languages.

For Apple Issue 2, the following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on October 11, 2023 and engaged in subsequent correspondence.

Delaware Counsel:

For Masimo: John Phillips

For Apple: David Moore, Bindu Palapura

Lead Counsel:

For Masimo: Jared Bunker

For Apple: Jordan Malz, Ryan Thorne

For Apple Issues 1 and 3 as well as Masimo Issues 1 and 2, the following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on November 8, 2023 and engaged in correspondence.

Delaware Counsel:

For Masimo: John Phillips

For Apple: David Moore

Lead Counsel:

For Masimo: Benjamin Katzenellenbogen

For Apple: Benjamin Luehrs, Jordan Malz

The parties are available for a teleconference on the following dates: November 13, 14, and 15, 2023.

POTTER ANDERSON & CORROON LLP

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By: /s/ David E. Moore

By: /s/ Megan C. Haney

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*Attorneys for Defendants*

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Dated: November 9, 2023

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